



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2010-1047; FRL-9720-2]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Indiana; Volatile Organic Compounds; Architectural and Industrial  
Maintenance Coatings**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving into the Indiana State Implementation Plan (SIP) the addition of a new rule that sets limits on the amount of volatile organic compounds (VOC) in architectural and industrial maintenance (AIM) coatings that are sold, supplied, manufactured, or offered for sale in the State.

**DATES:** This direct final rule will be effective [insert date 60 days from date of publication in the Federal Register], unless EPA receives adverse comments by [insert date 30 days from date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2010-1047, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for

submitting comments.

2. E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

3. Fax: (312) 692-2450.

4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2010-1047. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The

www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago,

Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, [maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background.
- II. Contents of Indiana's Rule
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

**I. Background.**

AIM coatings are generally paints, varnishes, and other similar materials that are meant for use on external surfaces of buildings, pavements and other outside structures. On December 7, 2010, the Indiana Department of Environmental Management submitted to EPA a request to approve into the Indiana SIP a new rule within Title 326, Article 8 "Volatile Organic Compound

Rules" that limits the VOC content in AIM coatings. The rule is located within the Indiana Administrative Code (IAC) at Title 326 IAC 8-14. Titled "Architectural and Industrial Maintenance (AIM) Coatings," it consists of seven sections that include the following components:

- 1) 326 IAC Article 8, Rule 14, Section 1 "Applicability"
- 2) 326 IAC Article 8, Rule 14, Section 2 "Definitions"
- 3) 326 IAC Article 8, Rule 14, Section 3 "Standards for AIM coatings"
- 4) 326 IAC Article 8, Rule 14, Section 4 "Container labeling"
- 5) 326 IAC Article 8, Rule 14, Section 5 "Recordkeeping and reporting requirements"
- 6) 326 IAC Article 8, Rule 14, Section 6 "Compliance provisions and test methods"
- 7) 326 IAC Article 8, Rule 14, Section 7 "Application of traffic marking materials"

A discussion of each section and its approvability is included in Section III of this action.

The VOC limits for consumer products and AIM coatings in 326 IAC 8-14 are based on a model rule developed by the Ozone Transport Commission (OTC) establishing VOC limits for adhesives, sealants and primers. In addition, the limits are at least as stringent as, and in some cases are more stringent than, EPA's national AIM rule, "National Volatile Organic Compound Emission

Standards for Architectural Coatings," 40 CFR part 59, subpart D. As a result, the new rule at 326 IAC 8-14 is approvable into the Indiana SIP. It should be noted that Indiana is not an OTC member state. By adopting a rule that mirrors the OTC model rule, however, Indiana is strengthening its SIP through enforceable VOC limits for AIM coatings with corresponding recordkeeping and reporting requirements.

## **II. Contents of Indiana's Rule.**

The following is a summary of each section of 326 IAC-8-14 "Architectural and Industrial Maintenance (AIM) Coatings," as submitted on December 7, 2010, and a discussion of why each section is approvable into the State's SIP.

### **326 IAC 8-14-1 "Applicability"**

This section makes 326 IAC 8-14 applicable to any person who sells, supplies, offers for sale, or manufactures AIM coatings within the State of Indiana. This section makes clear that AIM coatings that are sold or manufactured for use outside the State, shipped to other manufacturers for reformulation or repackaging, or sold in a container with a volume of one liter or less are exempt. Further, any aerosol coating product is exempt from this rule. The applicability for the rule as outlined in this section is consistent with model OTC language, and therefore is approvable for inclusion in Indiana's SIP.

### **326 IAC 8-14-2 "Definitions"**

This section provides definitions of products, terms, acronyms, and other language that is unique and/or specific to this rule. This section is consistent with the OTC model rule, and therefore is approvable for inclusion in Indiana's SIP.

**326 IAC 8-14-3 "Standards for AIM coatings"**

This section codifies VOC limits for each category of AIM coatings affected by 326 IAC 8-14. This section also includes additional requirements for certain product categories, including:

- A requirement that containers used to apply or thin AIM coatings subject to the limits of 326 IAC 8-14 must be closed when not in use.
- Sell-through provisions for affected products that were already manufactured by October 1, 2011.
- A provision stating that if an AIM coating is subject to two or more limits in this section, the most restrictive limit applies to the coating. Certain product categories are exempted, consistent with OTC and EPA rules for AIM coatings.
- A provision that restricts thinning of AIM coatings that exceeds the VOC limits set forth in this section.
- A provision that prohibits the application on or solicitation of any rust preventative coatings for industrial use unless the coating complies with the industrial maintenance coating VOC limit specified in this subsection.

-A provision for determining the VOC content limit of an AIM coating that does not meet any of the definitions for specialty coatings as specified in this section.

This section is consistent with the OTC model rule, and therefore is approvable for inclusion in Indiana's SIP.

#### **326 IAC 8-14-4 "Container Labeling"**

This section sets standards for product labeling for AIM coatings subject to 326 IAC 8-14. Under this section, container labels must prominently display, among other things:

- The date of manufacture of the AIM coating subject to this rule.
- Clear recommendations for thinning the AIM coating, if necessary, to meet the VOC limits set forth in this rule.
- A display of the VOC content of the AIM coating.

This section is consistent with the OTC model rule, and is approvable for inclusion in Indiana's SIP.

#### **326 IAC 8-14-5 "Recordkeeping and reporting requirements"**

This section outlines the recordkeeping and reporting requirements that manufacturers of products regulated under this rule must meet. Manufacturers of products subject to a VOC content limit within 326 IAC 8-14-3 must keep and make available to Indiana or EPA information about their product, including:

- The name of the product.
- An identifying number for the product, if applicable.
- VOC content of the product as determined by 326 IAC 8-14-6.



- The name or names and chemical abstract service (CAS) number of the VOC constituents in the product.
- Dates of the VOC content determinations for the product.
- The coating category and applicable VOC content limit of the product.

These records shall be kept by the manufacturer for no less than five years and be made available to Indiana for inspection within 90 days of request.

Manufacturers of products subject to VOC content limits within 326 IAC 8-14-3 must also make available to the State within 90 days of a request the following distribution and sales information:

- The manufacturer name and mailing address.
- The name, address, and telephone number of a contact person for the manufacturer.
- The name of the product as it appears on the label and the coating category under which it is regulated.
- Whether the coating is marketed for interior or exterior use, or both.
- The number of gallons of product sold in Indiana in containers greater than one liter.
- The actual VOC content and VOC content in grams per liter. If thinning is recommended, manufacturers must list the actual VOC content and the VOC content limit after recommended thinning.

-The names and CAS number of the VOC constituents in the product.

This section also lays out recordkeeping and reporting requirements for AIM coatings that contain perchloroethylene or methylene chloride. These requirements state that a manufacturer must provide to the State certain information about the product sold in Indiana, but within a shorter response time frame (30 days) than other paragraphs in this section.

Manufacturers of recycled coatings must provide the State with certification of their status as a recycled paint manufacturer, as well as total sales during the past year to the nearest gallon and the method used for determining those sales.

Finally, this section lays out recordkeeping and reporting requirements for manufacturers of bituminous roof coatings or bituminous roof primers. Manufacturers of these coatings must, within 30 days of a State request, provide the past year's sales in gallons, as well as the method used to determine those sales.

The recordkeeping and reporting requirements in this section are consistent with the OTC model rule for these coatings. Therefore this section is approvable into Indiana's SIP.

### **326 IAC 8-14-6 "Compliance provisions and test methods"**

This section outlines methods that must be used to determine compliance with the VOC content limits within 326 IAC 8-14-3. Two formulas for determining VOC content of an AIM coating are

listed: one of these formulas for most coatings, and a second formula for low-solids coatings.

In addition to these formulas, this section codifies EPA and other acceptable methods available to determine the physical properties of a coating in order to perform the VOC content limit calculation discussed above.

This section also allows the use of alternative compliance calculations, so long as those calculations are reviewed and approved in writing by the State and EPA. Finally, this section makes clear that manufacturers of methacrylate multicomponent coatings used for traffic markings must use a modification of EPA Reference Method 24 at 40 CFR Part 60, Appendix A. This section is consistent with the OTC model rule for AIM coatings and is therefore approvable into Indiana's SIP.

#### **326 IAC 8-14-7 "Application of traffic marking materials"**

This section limits the application of traffic marking materials during Indiana's ozone season (defined in the rule as May 1 through September 30) to only coatings that meet the VOC limits set forth in 326 IAC 8-14-3. Further, this section limits field-reacted (non-liquid) traffic marking materials, or traffic marking materials that cannot be measured as a liquid at the time of application to 3.6 kilograms per stripe-kilometer, or 12.2 pounds per stripe-mile. This section is consistent with the OTC

model rule for these coatings and therefore is approvable into Indiana's SIP.

### III. What Action is EPA Taking?

EPA is approving into the Indiana SIP Title 326 IAC 8-14 as adopted by the State of Indiana and as submitted to EPA on December 7, 2010. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [insert date 60 days from the date of publication in the Federal Register] without further notice unless we receive relevant adverse written comments by [insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the

remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [insert date 60 days from the date of publication in the Federal Register].

#### IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose

substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the

effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 14, 2012

Susan Hedman,  
Regional Administrator, Region 5.



40 CFR part 52 is amended as follows:

**PART 52-- [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended by adding a new entry in "Article 8. Volatile Organic Compound Rules" for "Rule 14. Architectural and Industrial Maintenance (AIM) Coatings" in numerical order to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Indiana Regulations**

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *				
<b>Article 8. Volatile Organic Compound Rules</b>				
* * * * *				
Rule 14. Architectural and Industrial Maintenance (AIM) Coatings				
8-14-1	Applicability	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
8-14-2	Definitions	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
8-14-3	Standards for AIM coatings	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
8-14-4	Container labeling	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
8-14-5	Recordkeeping and reporting requirements	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page	

			number where the document begins]	
8-14-6	Compliance provisions and test methods	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
8-14-7	Application of traffic marking materials	12/1/2010	<u>[insert the date of publication in the Federal Register]</u> , [Insert page number where the document begins]	
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[FR Doc. 2012-21235 Filed 08/29/2012 at 8:45 am; Publication Date: 08/30/2012]